

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Cr1.O.P.No.14461 of 2016
and
Cr1.M.P.No.7261 of 2016

Vishnu @ Vishnu Eswarakumar ... Petitioner/Accused No.3

Vs.

1. State rep by
Inspector of Police,
Pollachi East Police Station,
Coimbatore District ... 1st Respondent/Complainant
2. P. Arun ... Respondent/Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. Praying to call for records pertaining to the proceedings pending in C.C.No.64 of 2012 on the file of learned Judicial Magistrate No.1, Pollachi and quash the same.

For Petitioner : M/s. R. Sasikumar
For Respondent-1 : Mr.C.Iyyapparaj
Additional Public Prosecutor
For Respondent-2 : No appearance

ORDER

This petition is filed seeking to quash the proceedings in C.C.No.64 of 2012, pending on the file of the learned Judicial Magistrate No.1, Pollachi.

2. The petitioner is the third accused in C.C.No.64 of 2012, who has been alleged to have involved in the offences under sections 420 and 120(B) IPC. From the statements recorded u/s.161 Cr.P.C., as well as the statements of the other witnesses which culminated for filing of the charge sheet, it is seen the overt act attributed on the second accused namely Karpagam @ Karpagalli is the same as that of the overt act

levelled against the petitioner herein/3rd accused. The only averment is that the petitioner along with other two accused gave a false belief to the defacto complainant that they would obtain the license from the Bajaj Company to run a Bajaj Showroom and thereby, collected a sum of Rs.21 lakhs along with two blank cheques.

3. It is the submission of the learned counsel for the petitioner that pursuant to the said understanding, the defacto complainant is still running the show room as on date.

4. I do not want to go into the various averments made in the statements of the witnesses or in the charge sheet in view of the fact that the case of the second accused came to be quashed by this Court by an order dated 27.02.2014 in Crl.O.P.No.22411 of 2012 and as stated above, the overt act attributed to the petitioner herein is similar to that of the overt act attributed to the second accused. The relevant portion of the said order is as follows:-

"5. This Court has considered the rival submissions and perused the materials available on record.

6. It is seen that the act of this petitioner in issuing a receipt for sums received from the defacto complainant is only done in the capacity as an employee of A1 and A3. The other allegations against this petitioner, at first blush, appear to be mere window dressing.

7. For the aforesaid reasons, this Criminal Original Petition is allowed. The proceedings in C.C.No.64 of 2012 on the file of learned Judicial Magistrate I, Pollachi is quashed in so far as this petitioner is concerned. However, it is made clear that, if, in the course of trial, there is reason to suspect the involvement of this petitioner in the wrong doing alleged, it will always be open to the Court below to proceed under section 319 Cr.P.C. Consequently, connected miscellaneous petition is closed."

the aforesaid order is an explanatory. I do not find any reason as to why the proceedings against this petitioner should continue since this Court had earlier quashed the very same proceedings in respect of the second accused.

5. In the result, the proceedings as against the petitioner herein/third accused in C.C.No.64 of 2012 on the file of learned Judicial Magistrate No.1, Pollachi is quashed. However, it is made clear that, if, in the course of trial,

there is reason to suspect the involvement in this petitioner, by the trial court, it is always open to the Court below to proceed under section 319 of Cr.P.C.

6. The Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpl/rka

To

1.The Chief Judicial Magistrate,
Coimbatore.

2.The Judicial Magistrate No.1,
Pollachi.

3.The Inspector of Police,
Pollachi East Police Station,
Coimbatore District

4.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.R.Sasikumar, Advocate, S.R.No.78175

Crl.O.P.No.14461 of 2016

VGI(CO)
CA(15/11/2017)

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